



0000121335

BEFORE THE ARIZONA CORPORATION COMMISSION

DOCKETED

JIM IRVIN

Commissioner - Chairman

JAN 20 1999

TONY WEST

Commissioner

CARL J. KUNASEK

Commissioner

DOCKETED BY

sd

IN THE MATTER OF THE
COMPETITION IN THE PROVISION OF
ELECTRIC SERVICES THROUGHOUT
THE STATE OF ARIZONA.

DOCKET No. RE-00000-C-94-165

AECC COMMENTS PURSUANT TO
JANUARY 6, 1999 PROCEDURAL
ORDER

Pursuant to the Chief Hearing Officer's Procedural Order dated January 6, 1999, ASARCO Incorporated, Cyprus Climax Metals Company, Enron Corp., and Arizonans for Electric Choice and Competition¹ (collectively referred to herein as "AECC") hereby provide their comments regarding each of the following four issues:

- A) What issues still need to be resolved in the electric industry restructuring;
- B) The order in which the remaining issues should be resolved;
- C) The method and timing to resolve the issues identified; and
- D) Comments on the January 4, 1999 RUCO/Attorney General joint proposal.

At the outset, AECC wishes to express its concerns regarding the possibility that some parties may use the process of resolving the remaining issues concerning

¹ Arizonans for Electric Choice and Competition is a coalition of companies and associations in support of competition and includes Cable Systems International, BHP Copper, Motorola, Chemical Lime, Intel, Hughes, Honeywell, Allied Signal, Cyprus Climax Metals, Asarco, Phelps Dodge, Enron, Homebuilder's of Central Arizona, Arizona Mining Industry Gets Our Support, Arizona Food Marketing Alliance, Arizona Association of Industries, Arizona Multi-housing Association, Arizona Rock Products Association, Arizona Restaurant Association, Arizona Association of General Contractors, and Arizona Retailers Association.

1 deregulation to further delay the introduction of competition in the generation of
2 electric power. The Commission, along with the many stakeholders (including
3 incumbent utilities and consumers) have labored for more than four years towards the
4 introduction of a competitive marketplace in Arizona. To date, a great deal has been
5 accomplished. For example, the Commission has adopted rules which provide an
6 overall framework for the introduction and management of competition. In addition,
7 the Commission has deliberated and approved the means by which the Affected
8 Utilities will be afforded an opportunity to recover their stranded costs. Nevertheless,
9 it now appears that some of the stakeholders wish to ignore what has been
10 accomplished and return to "ground-zero." AECC respectfully submits that this is **not**
11 the time to revisit every issue that has been addressed and resolved previously by
12 allowing parties to reassert arguments and positions already considered by the
13 Commission.² Certainly, it was not the Commission's intent to stay the Rules so that
14 every competitive issue can be revisited. Instead, as the Commissioners' recent
15 discussions regarding the "stay" of the Electric Competition Rules made clear, this is
16 the time to resolve any remaining issues so that competition can move forward as
17 expeditiously as possible.

18 **A. REMAINING ISSUES TO BE RESOLVED.**

19 1. Individual Affected Utilities' Stranded Costs. Pursuant to Decision No.
20 60977 (June 22, 1998), the Affected Utilities' stranded cost compliance plans need
21 to be addressed. This will entail efforts to quantify each utilities' stranded costs and
22 to identify the means by which their stranded costs, if any, will be recovered.
23 Equally important will be ensuring that any recovery mechanism is economically
24

25 ² While AECC strongly opposes reopening all of the issues that have previously been
26 decided, AECC reserves its right to reassert its previous arguments and positions in the
event the Commission chooses to reconsider matters already subject to a final resolution.

1 feasible, fair to all consumers and does not result in a windfall to a utility by simply
2 shifting the burden of uneconomic decisions to ratepayers.

3 2. Unbundled Tariffs. Cost of service based unbundled tariffs for all customer
4 classes need to be approved for each Affected Utility.

5 3. Transmission Access. Retail customer transmission access protocols and
6 OATT Tariff's must be completed by Arizona Independent System Administrator to
7 ensure nondiscriminatory access to transmission facilities in the competitive
8 marketplace.

9 4. Electric Competition Rules. Modification proposals designed to enhance
10 the Rules' framework for competition should be considered by the Commission.

11 5. Competitive CC&N's. Streamlined procedures for issuing competitive
12 CC&N's should be adopted and all pending and future CC&N applications should be
13 granted consistent with the Electric Competition Rules.

14 6. Codes of Conduct/Affiliate Transactions. Each utility should be required to
15 file a proposed code of conduct designed to ensure compliance with the affiliate
16 transaction and other code of conduct provisions of the Electric Competition Rules.

17 **B. ORDER ISSUES SHOULD BE RESOLVED**. AECC submits that competition can
18 begin before there is a "final" resolution on any of the issues that remain to be
19 addressed. Clearly, however, this would require the reinstatement of the Electric
20 Competition Rules, the adoption of interim unbundled rates, and the issuance of
21 competitive CC&N's. Thereafter, the Commission should proceed with the adoption
22 of permanent cost based unbundled tariffs and the determination of economically
23 sound and universally fair means of quantifying and recovering stranded costs for
24 each Affected Utility. The Commission should also continue its efforts to address
25 transmission access issues, evaluate proposals for modifications of the Electric
26 Competition Rules and evaluate proposed codes of conduct.

1 **C. METHOD AND TIMING.** As for the issue of timing, AECC again submits that
2 any and all remaining issues should be addressed at the earliest possible opportunity
3 with the goal of introducing competition at the earliest possible date. Accordingly,
4 the Commission should commence, no later than February 1, 1999, to reinstate the
5 Electric Competition Rules, approve interim unbundled tariffs and issue competitive
6 CC&N's so that competition can begin prior to March 31, 1999.

7 Immediately thereafter, the Commission should proceed to address the
8 Affected Utilities' individual permanent unbundled tariffs and stranded cost
9 recoveries. This should be accomplished through consolidated hearings on the
10 Affected Utilities' proposed unbundled tariffs and stranded cost compliance plans to
11 be held in April and May 1999 so that final decisions on these issues can be made no
12 later than June 30, 1999. Notably, the Commission must require the Affected
13 Utilities to file meaningful proposals that accurately reflect the impact of the
14 Commission's prior decisions regarding the Electric Competition Rules and stranded
15 costs. To accomplish this goal, the Commission might consider using zero stranded
16 cost recovery and/or an increased shopping credit as a proxy until meaningful filings
17 are made by all Affected Utilities. In short, the Affected utilities must not be allowed
18 to indefinitely stall competition by avoiding the clear mandate of these prior
19 decisions.

20 In the meantime, the Commission must continue its efforts to address
21 proposals for modifying the Rules and require the filing of proposed codes of conduct,
22 which the Affected Utilities were previously required to file. If necessary, the
23 Commission can then hold additional hearings to address these issues. However,
24 these issues can and should also be resolved no later than June 30, 1999. The
25 Commission should also continue to work closely with the Arizona Independent
26

1 System Administrator to ensure that the adoption of transmission access protocols is
2 completed at the earliest possible date.

3 **D. RUCO/ATTORNEY GENERAL PROPOSAL.** AECC applauds the efforts of
4 RUCO and the Attorney General to aid the Commission and the various stakeholders
5 in reaching a final resolution of the remaining issues effecting the introduction of
6 competition. However, the joint proposal sets forth a time line that will delay
7 competition longer than necessary. As reflected herein, AECC respectfully submits
8 that the Commission can and should set forth a schedule that will allow competition
9 to begin much sooner than contemplated in the joint proposal. This can be
10 accomplished by shortening time periods for filing and by consolidating hearings to
11 the extent practical. As the parties' efforts to address many of the remaining issues
12 are already underway, and as most of the outstanding issues are common to all of
13 the Affected Utilities, this should not result in any undue prejudice to the
14 stakeholders or the public interest, particularly when viewed in light of the
15 overwhelming public interest in introducing competition at the earliest possible date.

16 Finally, AECC submits that the Commission should avoid setting a deadline for
17 the completion of the parties' settlement efforts. This is contrary to the public
18 interest and may result in thwarting settlement negotiations. Instead, the
19 Commission can and should encourage settlement openly and by adopting a
20 procedural schedule that will move very quickly towards introducing competition.

21 **E. CONCLUSION.** The Commission, and the legislature as well, has decided that
22 competition in the generation of electric power is in the public interest. In that light,
23 AECC does not believe that Decision No. 61311 (Jan. 5, 1999) was intended (or
24 should be used) to indefinitely delay the introduction of such competition. Rather,
25 the Commission was attempting to provide itself and all interested parties the
26 opportunity to resolve a few remaining, but important, issues. It is extremely

1 important that the Commission's decision not turn into a free-for-all where all parties
2 seek to readvance their original positions on the issues already decided. If that were
3 to occur, competition would be unnecessarily delayed and the public will further be
4 denied the benefits promised by a competitive marketplace for electric power.

5 RESPECTFULLY SUBMITTED this 20th day of January, 1999.

6 FENNEMORE CRAIG, P.C.

7

8

By 

9

C. Webb Crockett
Jay Shapiro
Suite 2600
3003 North Central Avenue
Phoenix, Arizona 85012
Attorneys for ASARCO Incorporated,
Cyprus Climax Metals Company, Enron Corp.
and
Arizonans for Electric Choice and Competition

10

11

12

13

14 ORIGINAL AND TEN COPIES
15 of the foregoing hand-delivered
this 20th day of January, 1999, to:

16 Arizona Corporation Commission
Docket Control
17 1200 West Washington Street
Phoenix, Arizona 85007

18

19 COPY OF THE FOREGOING
hand-delivered this 20th day
of January, 1999 to:

20

21 Jim Irvin
Commissioner - Chairman
Arizona Corporation Commission
22 1200 West Washington
Phoenix, Arizona 85007

23

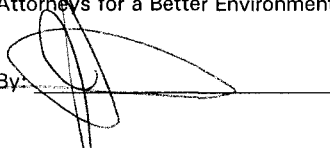
24 Tony West
Commissioner
Arizona Corporation Commission
25 1200 West Washington
Phoenix, Arizona 85007

26

1	Carl J. Kunasek	
	Commissioner	
2	Arizona Corporation Commission	
	1200 West Washington	
3	Phoenix, Arizona 85007	
4	Jerry Rudibaugh, Chief Hearing Officer	
	Hearing Division	
5	Arizona Corporation Commission	
	1200 West Washington	
6	Phoenix, Arizona 85007	
7	Ray Williamson, Acting Director	
	Utilities Division	
8	Arizona Corporation Commission	
	1200 West Washington	
9	Phoenix, Arizona 85007	
10	Paul Bullis, Chief Counsel	
	Legal Division	
11	Arizona Corporation Commission	
	1200 West Washington	
12	Phoenix, Arizona 85007	
13	COPY OF THE FOREGOING	
	mailed/faxed/deposited at ACC this 20th day of January, 1999 to:	
14	Barbara Klemstine	Michael A. Curtis
	Manager, Regulatory Affairs	MARTINEZ & CURTIS, P.C.
15	ARIZONA PUBLIC SERVICE CO.	2712 North 7th Street
	P.O. Box 53999, M.S. 9909	Phoenix, Arizona 85006
16	Phoenix, Arizona 85072-3999	Attorneys for Arizona Municipal Power Users' Association
17	Greg Patterson	Walter W. Meek, President
	RUCO	ARIZONA UTILITY INVESTORS ASSOCIATION
	2828 N. Central Ave., Suite 1200	2100 N. Central Avenue
18	Phoenix, AZ 85004	Suite 210
		Phoenix, Arizona 85004
19	Rick Gilliam	Barbara S. Bush
	LAND AND WATER FUND OF THE ROCKIES	COALITION FOR RESPONSIBLE ENERGY EDUCATION
20	2260 Baseline Road, Suite 200	315 West Riviera Drive
	Boulder, Colorado 80302	Tempe, Arizona 85282
21	Charles R. Huggins	COLUMBUS ELECTRIC COOPERATIVE, INC.
	ARIZONA STATE AFL-CIO	P.O. Box 631
22	110 North 5th Avenue	Deming, New Mexico 88031
	P.O. Box 13488	
23	Phoenix, Arizona 85002	
24	David C. Kennedy	CONTINENTAL DIVIDE ELECTRIC COOPERATIVE
	LAW OFFICES OF DAVID C. KENNEDY	P.O. Box 1087
	100 West Clarendon Avenue	Grants, New Mexico 87020
25	Suite 200	
	Phoenix, Arizona 85012-3525	
26	Norman J. Furuta	DIXIE ESCALANTE RURAL ELECTRIC ASSOCIATION

1	DEPARTMENT OF THE NAVY 900 Commodore Drive, Building 107 P.O. Box 272 (Attn. Code 90C) San Bruno, California 94066-0720	CR Box 95 Beryl, Utah 84714
2		
3	Thomas C. Horne Michael S. Dulberg HORNE, KAPLAN & BRISTROW, P.C. 40 North Central Avenue Suite 2800 Phoenix, Arizona 85004	GARKANE POWER ASSOCIATION, INC. P.O. Box 790 Richfield, Utah 84701
4		
5		
6	Rick Lavis ARIZONA COTTON GROWERS ASSOCIATION 4139 East Broadway Road Phoenix, Arizona 85040	Stephen Ahearn ARIZONA DEPT OF COMMERCE ENERGY OFFICE 3800 North Central Avenue, 12th Floor Phoenix, Arizona 85012
7		
8	Steve Brittle DON'T WASTE ARIZONA, INC. 6205 South 12th Street Phoenix, Arizona 85040	Betty Pruitt ARIZONA COMMUNITY ACTION ASSN. 202 E MCDOWELL RD STE 255 Phoenix, Arizona 85004-4535
9		
10	Karen Glennon 19037 N. 44th Avenue Glendale, Arizona 85308	Bradley Carroll TUCSON ELECTRIC POWER CO. P.O. Box 711 Tucson, Arizona 85702
11		
12	A.B. Baardson NORDIC POWER 4281 N. Summerset Tucson, Arizona 85715	Nancy Russell ARIZONA ASSOCIATION OF INDUSTRIES 2025 N. 3rd Street, Suite 175 Phoenix, Arizona 85004
13		
14	Michael Rowley c/o CALPINE POWER SERVICES 50 West San Fernando, Suite 550 San Jose, California 95113	Craig Marks CITIZENS UTILITIES COMPANY 2901 N. Central Avenue Suite 1660 Phoenix, Arizona 85012
15		
16		
17	Dan Neidlinger 3020 N. 17th Drive Phoenix, Arizona 85015	Thomas Pickrell Arizona School Board Association 2100 North Central Avenue Phoenix, Arizona 85004
18		
19	Jessica Youle PAB300 SALT RIVER PROJECT P.O. Box 53025 Phoenix, Arizona 85072-2025	Jack Shilling DUNCAN VALLEY ELECTRIC COOPERATIVE P.O. Box 440 Duncan, Arizona 85534
20		
21	Clifford Cauthen GRAHAM COUNTY ELECTRIC CO-OP P.O. Box Drawer B Pima, AZ 85543	Barry Huddleston DESTEC ENERGY P.O. Box 4411 Houston, Texas 77210-4411
22		
23	Michelle Ahlmer ARIZONA RETAILERS ASSOCIATION 137 E University Mesa, Arizona 85201	Steve Montgomery JOHNSON CONTROLS 2032 West 4th Street Tempe, Arizona 85281
24		
25	Joe Eichelberger MAGMA COPPER COMPANY P.O. Box 37	Terry Ross CENTER FOR ENERGY AND ECONOMIC DEVELOPMENT 7853 E. Arapahoe Court, Suite 2600
26		

1	Superior, Arizona 85273	Englewood, Colorado 80112
2	Douglas Mitchell SAN DIEGO GAS AND ELECTRIC CO. P.O. Box 1831	Ken Saline Jeff Wroner K.R. SALINE & ASSOCIATES Consulting Engineers 160 N. Pasadena, Suite 101 Mesa, Arizona 85201-6764
3	San Diego, California 92112	
4		
5	Sheryl Johnson TEXAS-NEW MEXICO POWER CO. 4100 International Plaza Fort Worth, Texas 76109	Louis A. Stahl STREICH LANG 2 North Central Avenue Phoenix, Arizona 85004
6		
7	Ellen Corkhill AARP 5606 North 17th Street Phoenix, Arizona 85016	Robert Julian PPG 1500 Merrell Lane Belgrade, Montana 59714
8		
9	Phyllis Rowe ARIZONA CONSUMERS COUNCIL 6841 N. 15 th Place Phoenix, Arizona 85014	Department of Navy Naval Facilities Engineering Command Navy Rate Intervention 901 M. Street SE Building 212 Washington, D.C. 20374 Attn: Sam DeFraw
10		
11		
12	Andrew Gregorich BHP COPPER P.O. Box M San Manuel, Arizona 85631	Robert S. Lynch 340 E. Palm Lane, Suite 140 Phoenix, Arizona 85004-4529
13		
14	Larry McGraw USDA-RUS 6266 Weeping Willow Rio Rancho, New Mexico 87124	Douglas A. Oglesby Vantus Energy Corporation 353 Sacramento Street, Suite 1900 San Francisco, California 94111
15		
16	Jim Driscoll ARIZONA CITIZEN ACTION 2430 S. Mill, Suite 237 Tempe, Arizona 85282	Michael K. Block, President GOLDWATER INSTITUTE Bank One Center 201 North Central Concourse Level Phoenix, Arizona 85004
17		
18		
19	William Baker ELECTRICAL DISTRICT NO. 6 P.O. Box 16450 Phoenix, Arizona 85011	Carl Robert Aron Executive Vice President and COO ITRON, INC. 2818 N. Sullivan Road Spokane, Washington 99216
20		
21		
22	John Jay List General Counsel NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORP 2201 Cooperative Way Herndon, Virginia 21071	Doug Nelson DOUGLAS C. NELSON, P.C. 7000 North 16 th Street, Suite 120-307 Phoenix, Arizona 85020
23		
24		
25	Wallace Tillman Chief Counsel NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION 4301 Wilson Blvd.	William Sullivan MARTINEZ & CURTIS, P.C. 2716 North 7 th Street Phoenix, Arizona 85006 Attorneys for Mohave Electric Cooperative and
26		

- 1 Arlington, Virginia 22203-1860
- 2 Lawrence V. Robertson, Jr.
Munger Chadwick, PLC
333 North Wilmot, Suite 300
3 Tucson, Arizona 85711-2634
Attorney for PGE Energy
- 4 Tom Broderick
6900 E. Camelback Road, #800
5 Scottsdale, Arizona 85251
- 6
- 7 Albert Sterman
ARIZONA CONSUMERS COUNCIL
2849 East 8th Street
8 Tucson, Arizona 85716
- 9 Michael Grant
GALLAGHER & KENNEDY
2600 North Central Avenue
10 Phoenix, Arizona 85004
Attorneys for AEPCO
- 11 Suzanne M. Dallimore
Antitrust Unit Chief
12 Arizona Attorney General
Department of Law Building
1275 West Washington Street
13 Phoenix, Arizona 85007
- 14
- 15 Andrew W. Bettwy
Debra Jacobson
SOUTHWEST GAS CORPORATION
5241 Spring Mountain Road
16 Las Vegas, Nevada 89102
- 17 Vincent Hunt
CITY OF TUCSON, DEPT. OF OPERATIONS
18 4004 S. Park Avenue
Bldg. 2
19 Tucson, Arizona 85714-0000
- 20 Steve Wheeler and Thomas M. Mumaw
SNELL & WILMER
One Arizona Center
400 East Van Buren Street
21 Phoenix, Arizona 85004-0001
Attorneys for APS
- 22 Myron L. Scott
1628 E. Southern Avenue, No. 9-328
23 Tempe, Arizona 85282-2179
Attorneys for a Better Environment
- 24
- 25 By: 
- 26 PHX/JLSHAPIR/921507.1/12194.233
- Navopache Electric Cooperative
- Elizabeth S. Firkins
INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, L.U. #1116
750 South Tucson Blvd.
Tucson, Arizona 85716-5698
- Barbara R. Goldberg
Deputy City Attorney
CITY OF SCOTTSDALE
3939 Civic Center Blvd.
Scottsdale, Arizona 85251
- Carl W. Dabelstein
2211 E. Edna Avenue
Phoenix, Arizona 85022
- Larry K. Udall
ARIZONA MUNICIPAL POWER USERS ASSN.
2712 N. 7th Street
Phoenix, Arizona 85006-1090
- Roderick G. McDougall
City Attorney
Attn: Jesse Sears, Asst. Chief Counsel
200 West Washington Street, Suite 1300
Phoenix, Arizona 85003-1611
- William J. Murphy
200 West Washington Street, Suite 1400
Phoenix, Arizona 85003-1611
- Russell E. Jones
33 N. Stone Avenue, Suite 2100
P.O. Box 2268
Tucson, Arizona 85702
Attorneys for Trico Electric Cooperative, Inc.
- Christopher Hitchcock
P.O. Box 87
Bisbee, Arizona 85603-0087
Attorneys for Sulphur Springs Valley
Electric Cooperative, Inc.
- Peter Glaser
DOHERTY RUMBLE & BUTLER PA
1401 New York Avenue, N.W., Suite 1100
Washington, DC 20005